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following statement by the author: "Hence in such a bill of discovery the plaintiff should allege that he is unable to prove the facts in respect to which discovery is sought by any other means than by bill of discovery." (Vol. II, p. 1118.) The only authority cited by the author in support of this statement is *Brown* v. *Swann*, 10 Pet. 497 (1836). This case was not an auxiliary bill for discovery, but to enjoin collection of a usurious judgment. It is submitted that this case with its *dicta* cannot rightfully be understood without realizing that in 1836 usurpation by equity courts of purely legal controversies was the fashion. This fashion was loudly denounced by Mr. Justice Wayne. And read in connection with the fact of this prevalent abuse of the process of discovery the metes and bounds of the following language in the opinion becomes plain:

"The rule to be applied to a bill seeking a discovery from an interested party is: That the complainant shall charge in his bill that the facts are known to the defendant, and ought to be disclosed by him, and *that the complainant is unable* to prove them by other testimony. . . . Unless such averments are required, is it not obvious that the boundaries between the Chancery and Common Law courts would be broken down; and that Chancellors would find themselves, under bills for a discovery from an interested party, engaged in the settlement of controversies, by evidence *aliunde*, which the Common Law courts could have procured, under the process of a subpoena."

We certainly cannot subscribe to the author's proposition that "a suit cannot be maintained in a Federal Court for the purpose of enforcing discovery in aid of an action already pending in a court of law." The decision of many of the cases cited by the author (II, p. 1119, note 1) in support of this assertion are explainable on other grounds.

In this connection he omits *Colgate* v. *Compagnie Francaise, &c.*, 23 Fed. 82. See Merwin's Equity, p. 480.

Whatever differences of view we have suggested should not detract from the very favorable commendation which the reviewer desires to give to the book under review. It is by all odds the most comprehensive and valuable work on Federal Equity practice which has yet appeared.

THE EVOLUTION OF LAW. By Henry W. Scott. New York: The Borden Press Publishing Co. 1908. Pp. 153.

Only eighty-five of the one hundred and fifty-three pages of this book are concerned with a logical exposition of the evolution of law. The remaining sixty-eight are filled by a number of rather disjointed introductory remarks which, the reader cannot help but feel, are tossed into this volume because they could not conveniently be printed elsewhere. Even the legitimate eighty-five pages can scarcely be said to contain an essay on the Evolution of Law. It would be a bold author who would attempt to compress such a subject within such limits; and Mr. Scott has not essayed the impossible. He has merely made a sketchy historical survey of the legal histories of those nations which stand out most prominently in the world's history. The facts of these legal histories are set forth, but with little account of the evolution of the legal ideas which gave them birth. "The Evolution of Law" suggests a work on legal philosophy. "An Outline of the Laws of Various Nations" would be a more suggestive title for this book. Mr. Scott's two-volume "Commentaries on the Evolution of the Law" will, we hope, present better material to the thoughtful student than his "Evolution of Law."

S. L.